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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76644; File No. SR-NFA-2015-01)

December 15, 2015

Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Change to the Interpretive Notice to NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for SFPs

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Exchange Act”),<sup>1</sup> and Rule 19b-7 under the Exchange Act,<sup>2</sup> notice is hereby given that on December 3, 2015, National Futures Association (“NFA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also filed this proposed rule change on December 3, 2015 with the Commodity Futures Trading Commission (“CFTC”).

NFA, on December 3, 2015, requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary.

The CFTC has not yet made such a determination.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The amendments to the Interpretive Notice entitled "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" ("Notice") make permanent the provision permitting registrants to qualify to engage in securities futures activities by completing a training program.

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<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

The text of the Interpretive Notice is available on NFA's website at [www.nfa.futures.org](http://www.nfa.futures.org), the Commission's website at [www.sec.gov](http://www.sec.gov), the self-regulatory organization's office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NFA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NFA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(k) of the Exchange Act<sup>3</sup> makes NFA a national securities association for the limited purpose of regulating the activities of NFA Members ("Members") who are registered as brokers or dealers under Section 15(b)(11) of the Exchange Act.<sup>4</sup> NFA's Notice entitled: "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" applies to all Members who meet the criteria in the Interpretive Notice and could apply to Members registered under Section 15(b)(11) of the Exchange Act.

The Commodity Futures Modernization Act of 2000 amended the Securities Exchange Act of 1934 to require NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience and competence necessary to effect transactions in security futures products and are tested for their knowledge of securities

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<sup>3</sup> 15 U.S.C. 78o-3(k).

<sup>4</sup> 15 U.S.C. 78o(b)(11).

and securities futures products." In 2001, NFA and FINRA (then NASD) adopted temporary relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than taking a proficiency exam, which NFA codified in the Notice. That relief has been extended four times and is currently set to expire on December 31, 2015.

NFA and FINRA proposed the four prior extensions, and the CFTC and SEC agreed to them, because of the relatively low trading volume in security futures products ("SFP") and the relatively few registrants engaging in security futures activities. These characteristics made the imposition of a qualifications exam an inefficient option, and the same reasons are equally compelling today.

In 2002 NFA, FINRA and the Institute for Financial Markets partnered together to develop a free web-based training program consisting of a series of modules intended to satisfy the training requirement ("SRO Training Modules"). From 2002 through May 2015, 15,216 individuals have completed the SRO Training Modules. Of this number, 10,108 individuals are registered with FINRA (including joint registrants) and 5,108 individuals are registered only with the CFTC. Most of these individuals took the SRO Training Modules in the first couple of years after SFPs began trading, and traffic has decreased since then. In 2014, only 180 registered individuals completed the SRO Training Modules (162 CFTC-only registrants). This compares with the approximately 4,000 people who took the Series 3 exam last year.

Additionally, SFP volume is low. In 2014, U.S. futures exchanges traded approximately 3.9 billion contracts, while SFP volume was just over 8 million – approximately 0.21% of the total. Given the limited interest in these products, NFA believes that implementing a testing requirement does not appear to be the most practical solution at this time.

Given the continued low number of registrants engaging in securities futures activities and the low SFP volume, NFA's Board of Directors at its August 20, 2015 meeting authorized NFA's Executive Committee to approve amendments to NFA's Interpretive Notice regarding proficiency requirements for SFPs to make permanent the provision permitting registrants to satisfy their proficiency requirement through training and eliminating the sunset provision. NFA's Executive Committee, as authorized by the Board of Directors, approved the amendments on October 15, 2015. NFA's Board of Directors ratified the Executive Committee's action at its November 19, 2015 meeting. The amendments also emphasize that the training must be completed before any individual registrant engages in activities involving SFPs. NFA, in coordination with FINRA, will continue to monitor the security futures volume and the number of persons taking the SRO Training modules, as well as any disciplinary matters involving SFPs, in considering whether a proficiency test should be developed at a later date.

Amendments to the Interpretive Notice regarding NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products were previously filed with the SEC in SR-NFA-2002-04, Exchange Act Release No. 34-46502 (Sep. 16, 2002), 67 FR 59587 (Sep. 23, 2002); SR-NFA-2003-03, Exchange Act Release No. 34-47825 (May 9, 2003), 68 FR 27128 (Mar. 19, 2002); SR-NFA-2003-04, Exchange Act Release No. 34-49054 (Jan. 12, 2004), 69 FR 2806, (Jan. 20, 2004); SR-NFA-2007-07, Exchange Act Release 34-57142 (Jan. 14, 2008), 73 FR 3502 (Jan. 18, 2008); SR-NFA-2009-02, Exchange Act Release 34-61284 (Jan. 4, 2010), 75 FR 1431 (Jan. 11, 2010) and SR-NFA-2014-01, Exchange Act Release No. 34-71976 (April 21, 2014), 79 FR 23028 (April 25, 2014).

## 2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k)(2)(D) of the Exchange Act.<sup>5</sup> That Section requires NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in SFPs and are tested for their knowledge of securities and securities futures products." Although the proposal makes permanent the relief from having to take an exam to engage in securities futures activities, the proposal still requires individual registrants to complete training before entering into any activities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have little or no impact on competition. The proposed Interpretive Notice does not impose new requirements on Members, but rather makes permanent the provision permitting registrants to qualify to engage in security futures activities by completing a training program.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is not effective because the CFTC has not yet determined that review of the proposed rule change is not necessary.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily temporarily suspend the

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<sup>5</sup> 15 U.S.C. 78o-3(k)(2)(D).

proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Exchange Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NFA-2015-01 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NFA-2015-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NFA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NFA-2015-01, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

Robert W. Errett  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).

